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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,816	12/22/2000	Cary Lee Bates	ROC9-2000-0127-US1	8896
7590	01/11/2005		EXAMINER JERABEK, KELLY L	
Steven W. Roth IBM Corporation, Dept. 917 3605 Highway 52 North Rochester, MN 55901-7829			ART UNIT 2612	
DATE MAILED: 01/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/746,816	BATES ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kelly L. Jerabek	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This case has been transferred to Examiner Kelly Jerabek. Please direct all future correspondence to Examiner Jerabek whose contact information can be found at the end of this office action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-15 and 17-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the submitted hand-written drawings are not legible. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 6-15 and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. US 6,433,818 in view of Matsumoto et al. US 6,590,608.**

Re claim 6, Steinberg discloses in figures 7-13 a camera including a biometric measurement system for the purpose of identifying and limiting operational access to an authorized user. The camera includes a housing (138; fig. 10) and a CCD (160) for capturing a plurality of images of respective objects of interest as well as sensing a biometric parameter (iris) of a user of the digital camera (col. 6, lines 35-67). The camera also includes a processor (32) for controlling its operation. The camera acquires biometric signature data (130) corresponding to a user of the camera and stores it in a memory (42) (col. 6, lines 5-15). The system may include a plurality of authorized users (col. 6, lines 1-4). When biometric data is gathered from the iris of a users eye by the CCD (160) the output is sent to processor (32) and compared to

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signature data (130) from memory (42) in order to enable or disable the camera (col. 6, lines 35-58). Therefore, the processor identifies each user of a plurality of potential users according to the signature data by comparing data (iris of users eye) obtained by the CCD (160) with signature data (130) in memory (42) associated with a plurality of users and responsive to identifying a user enables or disables the camera accordingly. Although Steinberg states that a camera may be enabled or disabled based on a biometric measurement that identifies a user of the camera he fails to specifically state that the signature data (user identifying information) is associated with each digital image of an object of interest that is captured by the digital camera.

Matsumoto discloses in figure 35 an image-capturing unit capable of adding information concerning a person who took the picture image is added to the picture image data as attribute data. When a picture is taken information concerning a person who took the image is stored in the storage unit (104) together with the picture data (col. 14, lines 18-35). Therefore, it would have been obvious for one skilled in the art to have been motivated to include the concept of storing attribute data concerning a person who took the image together with the picture data as disclosed by Matsumoto in the camera capable of using biometric signature data to identify a user of the camera and enable the capture of images based on the signature data. Doing so would provide a means for adding information concerning a person who took the picture to the picture data so that pictures can be grouped according to who captured them (Matsumoto: col. 14, lines 18-22).

Re claim 7, Steinberg states that the biometric parameter is an optically measured parameter (col. 6, lines 36-42).

Re claim 8, Steinberg states that the biometric parameter is an iris of the user's eye (col. 6, lines 36-42).

Re claim 9, Steinberg states that the optically measured biometric parameter is obtained by the digital camera using the same digital optical sensing apparatus (CCD: 160) shown in figure 11 that is used for obtaining images of objects of interest (col. 6, line 17 – col. 7, line 51).

Re claim 10, Steinberg discloses a viewing window (134) for viewing an image of an object of interest by the user. The CCD (160) senses light representing a biometric parameter and entering the camera through the viewing window (134) (col. 6, line 17 – col. 7, line 51).

Re claim 11, Steinberg discloses a viewing window (134) for viewing an image of an object of interest by the user. The CCD (160) senses light representing a biometric parameter and entering the camera through the viewing window (134) (col. 6, line 17 – col. 7, line 51). Also, the CCD (160) is inside the camera.

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Re claim 12, upon activation of the camera biometric data is taken of the iris of a prospective user's eye and the prospective user's biometric data is compared by the processor with the stored signature data. If they are the same the camera takes a picture (col. 7, lines 29-51). Therefore, it can be seen that the processor selectively enables at least one camera function (camera takes picture) responsive to identifying a user from the detected biometric parameter.

Re claim 13, Steinberg discloses in figure 11 a camera capable of a biometric measurement of the iris of a user's eye. A authorized user may place their eye on the viewfinder and press the shutter button (122) to cause the CCD (160) to detect light from the users eye in order to create signature data (biometric measurement) (col. 7, lines 5-28). Once the signature data is stored and the camera is activated, biometric data is taken of the iris of a prospective user's eye. Following this, a prospective user's biometric data is compared by the processor with the stored signature data. If they are the same the camera takes a picture (col. 7, lines 29-51). Therefore, the user of the camera is automatically identified using the optical biometric measurement (signature data) and if the camera is enabled a plurality of digital images of respective objects of interest are taken. Although Steinberg states that a camera may be enabled or disabled based on a biometric measurement that identifies a user of the camera he fails to specifically state that the signature data (user identifying information) is associated with each digital image of an object of interest that is captured by the digital camera.

Matsumoto discloses in figure 35 an image-capturing unit capable of adding information concerning a person who took the picture image is added to the picture image data as attribute data. When a picture is taken information concerning a person who took the image is stored in the storage unit (104) together with the picture data (col. 14, lines 18-35). Therefore, it would have been obvious for one skilled in the art to have been motivated to include the concept of storing attribute data concerning a person who took the image together with the picture data as disclosed by Matsumoto in the camera capable of using biometric signature data to identify a user of the camera and enable the capture of images based on the signature data. Doing so would provide a means for adding information concerning a person who took the picture to the picture data so that pictures can be grouped according to who captured them (Matsumoto: col. 14, lines 18-22).

Re claim 14, Steinberg states that the biometric parameter is an iris of the user's eye (col. 6, lines 36-42).

Re claim 15, Steinberg states that the camera is configured according to a first configuration wherein light from a user's eye enters the camera through a viewing window (156) and is captured by the CCD (160) (col. 7, lines 5-28) and a second configuration wherein light from the object of interest enters the camera through a path other than the viewing window and is captured by the CCD (160) (col. 7, lines 29-51).



Re claim 17, upon activation of the camera biometric data is taken of the iris of a prospective user's eye and the prospective user's biometric data is compared by the processor with the stored signature data. If they are the same the camera takes a picture (col. 7, lines 29-51). Therefore, it can be seen that the processor selectively enables at least one camera function (camera takes picture) responsive to identifying a user from the detected biometric parameter.

Re claim 18, upon activation of the camera biometric data is taken of the iris of a prospective user's eye and the prospective user's biometric data is compared by the processor with the stored signature data. If they are the same the camera takes a picture if they are not the same the camera does not take a picture (col. 7, lines 29-51). Additionally, Steinberg states that the system may include a plurality of authorized users (col. 6, lines 1-4). Therefore, at least one camera operating parameter (enable/disable) is associated with each of a plurality of users (the camera is either enabled or disabled based on the prospective user's biometric data compared to the stored signature data). Also, responsive to the step of identifying the user at least one camera operating parameter (enable/disable) is automatically set to the value corresponding to the identified user (a.k.a. the camera is either enabled or disabled depending on the comparison of the user's biometric data and the stored signature data).

Re claim 19, see claim 18.

***Allowable Subject Matter***

Claims 1-5 allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fail to anticipate or render obvious the following technical features as recited in the highlighted claims:

Referring to claims 1-5, the prior art fails to teach or suggest "...said second light path not being coincident in any segment with any segment of said first light path, said second light path encountering said digital optical sensing apparatus at a non-zero angle with respect to said first light path".

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Okada et al. (US 6,035,054) discloses a visual axis detection apparatus and optical apparatus provided therewith. The information regarding receiving an image of an observer's eye is relevant material.

Yamada et al. (US 5,579,079) discloses an optical apparatus equipped with a sight line detector. The information regarding receiving an image of an observer's eye is relevant material.

Suzuki et al. (US 5,486,892) discloses a camera with a visual axis detecting device. The information regarding receiving an image of an observer's eye is relevant material.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

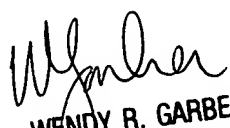
### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is 703-305-8659. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 703-305-4929. The fax phone number for submitting all Official communications is 703-872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at 703-746-3059.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ

  
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